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| 10/655,409  | 09/04/2003  | Timothy M. Keiser      | 98-HSX001-C5        | 6575             |
| 63710 7590 05/26/2010<br>INNOVATION DIVISION<br>CANTOR FITZGERALD, L.P.<br>110 EAST 59TH STREET (6TH FLOOR)<br>NEW YORK, NY 10022 |             |                        |                     |                  |
| EXAMINER<br>GRAHAM, CLEMENT B   |             |                        |                     |                  |
| ART UNIT<br>3691  |             | PAPER NUMBER           |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/655,409

**Applicant(s)**

KEISER ET AL.

**Examiner**

Clement B. Graham

**Art Unit**

3691

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-26, 28, 29, 31, 32, 34 and 144-179 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-26, 28, 29, 31, 32, 34 and 144-179 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/17/10, 11/3/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 20-26, 28-29, 31-32, 34, 144-179 remained pending in this application.

#### Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20-26, 28-29, 31-32, 34, 144-179, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rickard et al (Hereinafter Rickard US Patent No. 6,016, 483) in view of Rickard et al (Hereinafter Rickard1 US Patent No. 6,122, 189).

As per claim 20, Rickard discloses a method comprising:  
receiving, from a remote device, at a computing device at least one order to buy or sell a financial instrument, in which the financial instrument represents a movie having a plurality of stages of development that comprise at least one pre-release stage and at least one post-release stage (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67) determining, using a computing device, an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument, in which the computing device and the remote device are in communication over a network (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67) determining a demand for the financial instrument based on the imbalance, determining a price for the financial instrument based on the demand at least in part on the item being in a pre release development stage at a time of a trade (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67) .

Rickard fail to explicitly teach executing a trade on the financial instrument at the determined price.

However Rickard1 discloses terminals and performs the necessary calculations discussed above. Once the identities of all of the parties and the prices and the volumes have all been determined, the control engine then executes the trade in each of the relevant markets, and informs the parties of the results of the trades. Clearing is performed in accordance with known rules and regulations.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Rickard to include executing a trade on the financial instrument at the determined price taught by Rickard1 in order to produce a price that account for the creation phases of the product.

As per claim 21, Rickard discloses further comprising:  
determining an initial price of the financial instrument in the pre-release stage, in which the initial price is based at least in part on estimated revenues generated by of the movie (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 22, Rickard discloses in which the movie has an undetermined release date, the method further comprising, fixing the release date for the movie after the execution of the trade (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 23, Rickard discloses further comprising:  
determining an initial price of the financial instrument in the pre-release stage, in which the initial price of the financial instrument is based at least in part on actual revenues generated by the movie associated with the item (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 24, Rickard discloses further comprising: wherein determining an initial price of the financial instrument in the pre-release stage, in which the plurality of stages and the initial prices based at least in part on a likelihood of success of the movie item (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 25, Rickard discloses 25.(Currently Amended) The method of claim 20 further comprising:  
attaching a warrant with a strike price to the financial instrument(see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 26, Rickard discloses the financial instrument is traded in an initial offering and ~ an initial price of the financial instrument is based at least in part on a number of shares issued in the initial offering for the financial instrument (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 28, Rickard discloses determining an initial price of the financial instrument in the post-release stage, in which the initial price instrument is based at least in part on an opening weekend box office gross revenue and a historic multiplier for total gross revenue (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 29, Rickard discloses in which the act of determining the demand for the financial instrument further comprises:  
determining that the imbalance exceeds a threshold, in which the threshold comprises a predetermined amount; and stopping trading of the financial instrument based on the imbalance exceeding the threshold (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 31, Rickard discloses further comprising:, wherein determining the price of the instrument comprises:  
computing a price increase or a price decrease for the financial instrument based on the buy imbalance (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 32, Rickard discloses wherein the price of the instrument is increased or decreased incrementally based at least in part on a security price increment constant.

As per claim 34, Rickard discloses 34. (Original) The method of claim 31, further comprising:

comparing a security break threshold to the computed price increase or decrease, and increasing or decreasing the price of the instrument based at least in part on a security break increment when the increase or decrease exceeds the security break threshold (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 38, Rickard discloses in which the trades are executed in cycles, in which each cycle has a market price (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 39, Rickard discloses in which the price of the financial instrument is determined by increasing or decreasing the price of a previous cycle by the computed price increase or decrease (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 40, Rickard discloses further comprising storing, for each financial instrument, trade volume information and trade price information (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 40, Rickard discloses further comprising: receiving a query for requesting trade volume statistics for a selected instrument; analyzing the stored trade volume information in response to the received query; and generating and displaying the trade volume statistics for the selected instrument in response to analyzing the stored trade volume information (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67and column 9 lines 1-67).

As per claim 42, Rickard discloses further comprising: receiving a query for requesting buy versus sell volume statistics for a selected instrument, analyzing the stored trade volume information and the stored trade price information

in response to the received query; and generating and displaying the buy versus sell statistics for the selected instrument in response to the analyzing the stored trade volume information and the stored trade price information (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 43, Rickard discloses further comprising:  
storing a plurality of categories of trade information relating to the plurality of trade orders;  
receiving a query for requesting statistics for a selected category in a selected instrument;  
analyzing stored categories of trade information in response to the received query (see column 17 lines 45-65 and column 18 lines 1-17) and generating and displaying statistical information for the selected category in the selected instrument in response to the analyzing the store categories of trade information (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 144, Rickard discloses an apparatus comprising:  
a processor and a memory, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 20 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 145, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 21 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 146, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 22 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 147, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 23 (see

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column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 148, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 24 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 149, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 25 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 150, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 26 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 151, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 28 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 152, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 29 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 153, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 31 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 154, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 32 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).



As per claim 155, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 34 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 156, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 38 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 157, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 39 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 158, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 40 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 159, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 41 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 160, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 41 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 161, Rickard discloses in which the memory further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 41 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 162, Rickard discloses an article of manufacture comprising:  
a storage medium, in which the storage medium stores instructions which, when executed by a

processor, direct the processor to perform the method of claim 20 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 163, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 21 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 164, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 22 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 165, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 23 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 166, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 24 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 167, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 25 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 168 Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 26 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 169, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 28

(see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 170, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 29 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 171, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 31 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 172, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 32 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 173, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 34 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 174, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 38 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 175, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 39 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 176, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 40 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 177, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 41 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 178, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 42 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

As per claim 179, Rickard discloses in which the storage medium further stores instructions which, when executed by the processor, direct the processor to perform the method of claim 43 (see column 17 lines 45-65 and column 18 lines 1-17, and column 5 lines 45-67 and column 6 lines 1-67 and column 7 lines 1-47 and column 8 lines 6-67 and column 9 lines 1-67).

### **Conclusion**

### **RESPONSE TO ARGUMENTS**

4. Applicant's arguments filed 8/7/09 has been fully considered but they are moot in view of new grounds of rejections.
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CG

April 20, 2010

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691